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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,430

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Anthony J. Baerlocher

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EXAMINER

DEODHAR, OMKAR A

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

12/26/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

## Office Action Summary

**Application No.**

10/763,430

**Applicant(s)**

BAERLOCHER ET AL.

**Examiner**

Omkar A. Deodhar

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/23/2007.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Final Rejection

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamille, (US 5,855,514).

#### **Claim 1:**

A gaming device comprising:

a display device adapted to display a game, (Kamille discloses virtual embodiments with gaming machines that use processors and displays, Col. 5. Lines 32-49)

and a processor configured to operate with said display device for a play of the game to:

(a) display a plurality of symbols, said symbols including at least one non-terminator symbol and at least one terminator symbol, (Figure 7C shows terminator symbols, VOID, and non-terminator symbols, "WIN 50c");

(b) enable a player to select at least one of the symbols, (A player may select symbols)

(c) provide a value to the player if the selected symbol is a non-terminator symbol, (Figure 7C – "WIN 50c") and

provide another value to the player if said selected symbol is a terminator symbol,

wherein said value is at least partially based on the number of non-terminator symbols

not selected, (If insurance is purchased and a terminator symbol is revealed, the player may continue game play and awards values escalate based on unselected symbols, Col. 10. Lines 65-67 & Col. 11. Lines 1-25).

**Claim 4:**

A gaming device comprising:

a display device adapted to display a game; and

a processor configured to operate with said display device for a play of the game to:

(a) display a plurality of symbols, said symbols including at least one non- terminator symbol and at least one terminator symbol, (as presented with respect to Claim 1, terminator and non-terminator symbols are taught);

(b) enable a player to select one of said symbols not previously selected by the player; (A player progressing through the choice directions of Figure 7C selects symbols not previously selected)

(c) provide a value to the player if said selected symbol is a non-terminator symbol, ("WIN 50c"),

(d) provide another value to the player if the selected symbol is a terminator symbol, wherein said value is at least partially based on the number of non-terminator symbols not previously selected, (as presented above with respect to Claim 1); and

(e) repeat steps (b) to (d) at least once if the selected symbol is a non- terminator symbol, (steps may be repeated as desired.)

**Claim 7:**

A gaming device comprising:

a display device adapted to display a game; and

a processor configured to operate with said display device for a play of the game to:

(a) display a plurality of player selectable selections, (Referring again to Figure 7C, a plurality of selectable selections are disclosed),

enable a player to select at least one of said selections, (A player may select a selection),

(c) provide a first award to the player if said player selected selection is not associated with a terminator, (Figure 7C - A first award may occur the first time a player reaches "WIN 50c"), wherein each of at least one terminator is associated with one of said player selectable selections, (VOID locations are associated with locations); and

(d) provide a second award to the player if said player selected selection is associated with one of said terminators, wherein said second award is at least partially based on the number of non-selected selections that are not associated with one of said terminators, (Please refer to the Insurance disclosure, as presented above with respect to Claim 1, and discussed below with respect to the rejections of Claims 8-9).

**Claim 11:**

Kamille discloses limitations as presented above.

**Claims 15 and 20:**

Kamille discloses limitations as presented above, and additionally:

Regarding claim 15, a processor configured to cause a selection of at least one of said selections, (As shown in Figure 3 and discussed in Col. 11. Lines 8-11, if a player had

insurance, the void at play area 306 would not terminate the game. Instead, the processor would cause the game piece to advance through play areas 301 and 302, and the player would be awarded the prize values associated with those locations.) Regarding claim 20, when the processor causes a selection (as discussed above), the processor may select a location not previously uncovered. For example, play areas 301 and 302 were not previously selected, or uncovered. Additionally, first awards are associated with selections, (Figure 7C - with one wager, a player can encounter first awards, multiple "WIN 50c" locations). Second awards are provided if a terminator is encountered, (this follows from the Insurance disclosure, discussed also with respect to at claims 8-9, below.)

**Claim 24:**

Kamille discloses limitations as presented above.

**Claims 30 and 31:**

Kamille discloses limitations as presented above. Additionally, the steps recited in Claim 31 are disclosed through progression determined by choice directionals.

**Claim 35:**

Kamille discloses limitations as presented above.

**Claim 41:**

Kamille discloses limitations as presented above.

**Claim 47:**

Kamille discloses limitations as presented above.

**Claims 2, 3, 5, 6, 10, 14, 18, 23, 28-29, 48, 51-52:**

Terminator and non-terminator symbols are disclosed, (Figure 7C discloses "WIN 50c" and "VOID.") Terminators are associated with player selectable selections. Selections are associated with values. Players are able to select selections.

**Claims 8-9, 12-13, 16-17, 21-22, 26-27, 36-37, 42-43, 49-50:**

A player that purchases insurance is able to continue play after revealing a terminator symbol. When play continues, the number of award values is based on uncovered/remaining locations. Such locations include non-terminator locations (additional choice directionals or win amounts). The number of times a player may continue play after uncovering a terminator location is determined by the amount of insurance paid by the player. Please refer to the discussion of insurance in Col. 10. Lines 65-67 & Col. 11. Lines 1-25. This also teaches first awards, second awards and on so, as recited in the claims.

**Claim 19:**

A plurality of first awards is shown, at least in Figure 7C; with one wager, a player can encounter first awards, (multiple "WIN 50c" locations).

**Claim 25:**

It is inherent that, in a virtual embodiment, the processor enables game play functions.

**Claims 32-33, 38-39, 44-45, 53-54:**

Data networks and the Internet are disclosed, (Col. 4. Lines 32-49.)

**Claims 34, 40, 46, 55:**

Memory devices associated with gaming devices inherently store instructions. Kamille discloses virtual embodiments with gaming machines, (Col. 4. Lines 32-49.)

***Response to Remarks***

Applicant's arguments have been considered, but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omkar A. Deodhar whose telephone number is 571-272-1647. The examiner can normally be reached on M-F 8AM – 4:30PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

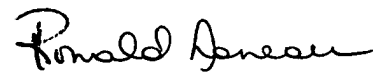


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OAD



RONALD LANEAU  
PRIMARY EXAMINER

12/18/07